

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

# THOMAS DAUGHERTY READER

PLAINTIFF,

VS.

**DEPUTY ERIC GRAHAM, IN HIS OFFICIAL  
AND INDIVIDUAL CAPACITIES,  
DEPUTY JIMMY VASQUEZ, JR., IN HIS  
OFFICIAL AND INDIVIDUAL CAPACITIES, AND  
KERR COUNTY, TEXAS**

DEFENDANTS.

CIVIL ACTION No. 5:23-CV-1024-JKP

**DEFENDANT DEPUTIES ERIC GRAHAM AND JIMMY [SIC] EMILIO  
VASQUEZ' ORIGINAL ANSWER**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE JASON K. PULLIAM:

**NOW COMES KERR COUNTY DEPUTIES ERIC GRAHAM and JIMMY [SIC]**  
**EMILIO VASQUEZ**, Individually, Defendants in the above entitled and numbered cause and  
files this their Original Answer to Plaintiff's Original Complaint heretofore filed and in  
support thereof would respectfully show unto the Court the following:

## I. FIRST DEFENSE

Plaintiff's Complaint fails to state a cause action against these Defendants upon which relief may be granted.

## II. SECOND DEFENSE

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** admit that this action purports to arise from alleged violations of Plaintiff's constitutional rights pursuant to 42 U.S.C. §1983 as alleged in Plaintiff's Complaint; however, Defendants deny that any cause of action exists there under.

**III.  
THIRD DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny “**INTRODUCTION**” Paragraphs 1 and 2 of Plaintiff’s Original Complaint. Defendants deny that Plaintiff’s rights were violated under Fourth and Fourteenth Amendment as alleged in Plaintiff’s Complaint.

**IV.  
FOURTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny “**BACKGROUND**” Paragraphs 10 through 14 of Plaintiff’s Original Complaint. Defendants would show unto the Court that Deputy Graham was driving a marked Kerr County Patrol vehicle with Deputy Emilio Vasquez as a passenger. Defendants would show unto the Court that at the time of the incident in question, their patrol vehicle was driving on Clear Water Paseo Drive toward the Kerr County Sheriff’s Office which was only a few hundred feet from their location when Plaintiff Reader, driving in the opposite direction “*flipped the bird*” at the Defendant Deputies. Defendant Deputy Graham recognized Plaintiff Reader as an individual he had previously arrested on a warrant for failure to have a valid driver’s license. As Defendant Deputy Graham turned his patrol vehicle around, he witnessed the Reader vehicle turn into a parking lot without using a turn signal. Defendant Deputy Graham pulled his patrol vehicle behind the Reader vehicle in the parking lot and requested a valid driver’s license. When Graham did not produce a valid driver’s license, he was detained. Ultimately, a valid occupational license was found inside the vehicle, Plaintiff was cited for a traffic violation of failure to signal a turn and was released. During the entire encounter, which lasted approximately 15 minutes, Plaintiff Reader can be seen on body worn camera yelling obscenities at both deputies in an attempt to provoke a reaction. Both Deputies treated

Plaintiff Reader with utmost respect and restraint. Defendant Deputies assert Plaintiff has failed to state a cause of action for violation of his civil rights under 42 U.S.C. §1983, as a matter of law.

**V.  
FIFTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny Paragraphs 14 through 21 of Plaintiff's Original Complaint. Defendants deny that Plaintiff's rights were violated under the Fourth or Fourteenth Amendment, as alleged. Defendant **DEPUTIES GRAHAM** and **VASQUEZ** would show unto the Court that at all times made the basis of Plaintiff's Complaint that they were acting in the course of their duties as Kerr County Deputies, acting pursuant to their discretionary duties as peace officers of the State of Texas and acted at all times in good faith and therefore, they are entitled to the protective shroud of qualified immunity and official immunity, as a matter of law.

**VI.  
SIXTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny "COUNT I" Paragraphs 22 and 23 of Plaintiff's Original Complaint. Defendant **EMILIO VASQUEZ** had no contact with Plaintiff Reader other than being the subject of obscenities mouthed by Plaintiff Reader. Defendant **DEPUTIES GRAHAM** and **VASQUEZ** would show unto the Court that their body worn camera and dash cam video shows restraint on behalf of the officers when faced with an individual committing disorderly conduct and shouting obscenities. Defendant Deputies assert qualified immunity under both prongs of the qualified immunity analysis. Defendant Deputies did not violate Plaintiff's constitutional rights and their actions on the date in question were not objectively unreasonable in light of established law.

**VII.  
SEVENTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny “**COUNT II**” Paragraphs 24 and 25 of Plaintiff’s Original Complaint. Defendants deny Plaintiff’s allegation of false imprisonment and unlawful detention.

**VIII.  
EIGHTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny “**COUNT III**” Paragraphs 26 and 27 of Plaintiff’s Original Complaint. Defendants deny Plaintiff’s claims of malicious prosecution.

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** assert their affirmative defenses for any claims which could be inferred under the TEXAS TORT CLAIMS ACT that governmental immunity has not been waived under Chapter 101, § 101.021, § 101.0215, § 101.024, §101.026, § 101.055, § 101.056, § 101.057, and § 101.106(e) and (f), as a matter of law.

Defendants further assert their defenses under the TEX. CIV. PRAC. & REM. CODE, Chapter 108, § 108.002, as a matter of law

**IX.  
NINETH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny “**COUNT IV**” Paragraphs 28 through 33 of Plaintiff’s Original Complaint. Defendants deny that Kerr County Sheriff’s Department has a policy or custom of inadequately training or supervising its deputies as alleged.

**X.  
TENTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny “COUNT V” Paragraphs 34 and 35 of Plaintiff’s Original Complaint.

**XI.  
ELEVENTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** deny the Prayer for Relief in Plaintiff’s Original Complaint. Defendants assert unto the Court that Plaintiff is not entitled to compensatory or punitive damages as alleged.

**XII.  
TWELFTH DEFENSE**

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** herein deny any allegations in Plaintiff’s Original Complaint not specifically admitted herein and demand strict proof thereof as required by law.

Defendant **DEPUTIES GRAHAM** and **VASQUEZ** herein demand a jury trial.

**WHEREFORE, PREMISES CONSIDERED,** Defendant **DEPUTIES ERIC GRAHAM** and **EMILIO VASQUEZ** pray that Plaintiff’s suit be dismissed against them, or in the alternative, that Plaintiffs take nothing by his lawsuit against them, that the Defendants have Judgment herein, that Defendants be awarded their costs expended, including reasonable attorney’s fees and for such other and further relief, both general and special, and at law and in equity, to which they may show themselves justly entitled.

Respectfully submitted,

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**KERR COUNTY, TEXAS, DEPUTY ERIC GRAHAM  
AND DEPUTY EMILIO VASQUEZ**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing Defendant **DEPUTIES GRAHAM AND VASQUEZ**' Original Answer filed via CM/ECF has been forwarded on this the 16th day of October, 2023 to the Non-ECF Participant via certified Mail:

Thomas Daugherty Reader  
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//s// Charles S. Frigerio  
CHARLES S. FRIGERIO